



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/789,452	02/27/2004	Shaibal Roy	11779-US-PAT (80239)	5182
27975 7590 01/09/2009 ALLEN, DYER, DOPPELT, MILBRATH & GILCHRIST P.A. 1401 CITRUS CENTER 255 SOUTH ORANGE AVENUE P.O. BOX 3791 ORLANDO, FL 32802-3791			EXAMINER WALSH, JOHN B	
			ART UNIT 2451	PAPER NUMBER
			NOTIFICATION DATE 01/09/2009	DELIVERY MODE ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

creganoa@addmg.com

Office Action Summary	Application No. 10/789,452	Applicant(s) ROY, SHAIBAL	
	Examiner John B. Walsh	Art Unit 2451	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 October 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6,8-16,18-28,30-41,43-47 and 49-51 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 49 is/are allowed.
- 6) ☒ Claim(s) 1-3,5,6,8-13,15,16,18-24,26-28,30-36,38-41,43-47,50 and 51 is/are rejected.
- 7) ☒ Claim(s) 4,14,25 and 37 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-3, 5, 6, 8, 11-13, 15, 16, 18, 21-24, 26-28, 30, 34-36, 38-41, 43, 47 and 50 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 7,213,065 to Watt in view of U.S. Patent No. 7,139,917 to Jablon.

As concerns claims 1 and 50, a communications system comprising: a database (col. 7, line 12) for storing problem magnitudes (col. 7, line 16) relating to failed attempts at accessing servers using connection engines; and an intelligent routing engine (col. 2, lines 47-57; col. 5, lines 28-29- 102; col. 5, lines 46-50; col. 6, lines 12-16) operative with the database for querying the database and delaying any further attempts at accessing the server when the problem magnitude as a preset rate of decay (fig. 6A-time interval) exceeds a predetermined threshold (figure 6A; 612,614,616).

As concerns claims 2, 12 and 22, wherein said intelligent routing engine is operative for delaying any reattempts at accessing a server until a problem magnitude returns to below a predetermined threshold (figure 6B-686).

As concerns claim 3, 13, 23 and 40 any delay in reattempting access to the server is a function of a preset rate of decay of a problem magnitude (fig. 6A-time interval).

Art Unit: 2451

As concerns claims 5 and 15, wherein said database includes data relating to a problem magnitude versus time (fig. 6A-612) for any server and connection engine pair.

As concerns claims 6, 16, 28 and 41, wherein a problem magnitude is assigned for an error based on network failures (figure 6A, 606,608).

As concerns claim 11, a communications system comprising: a plurality of connection engines (col. 2, lines 47-57; col. 5, lines 28-29- 102; col. 5, lines 46-50) that can be used by a client for accessing a server of a server on an Internet Protocol (IP) network, wherein said connection engines are distributed among a plurality of subnets and/or IP addresses; a database (col. 4, lines 53-56; col. 7, line 12) for storing a problem magnitude versus time (fig. 6A-612) relating to a particular connection engine and server after attempts had been made to access servers using the connection engines and problem magnitudes as a preset rate of decay (fig. 6A-time interval) had been assigned to failures in accessing the servers; and an intelligent routing engine (col. 2, lines 47-57; col. 5, lines 28-29- 102; col. 5, lines 46-50; col. 6, lines 12-16) operative with the database for selecting a connection engine with minimum problems (figure 6B, 600) when a particular server is to be accessed based on stored data within the database.

As concerns claim 21, a method of accessing a server of a server on an Internet Protocol (IP) network comprising the steps of: attempting access to a server using a first connection engine (col. 2, lines 47-57; col. 5, lines 28-29- 102; col. 5, lines 46-50; col. 6, lines 12-16); assigning a problem magnitude (figure 6A-612) if the attempt at accessing the server has failed; and delaying any further attempts at accessing the server when the problem magnitude as a preset rate of decay (fig. 6A-time interval) exceeds a predetermined threshold (figure 6A-614).

Art Unit: 2451

As concerns claim 24, a method according to claim 21, and further comprising the step of maintaining a database (col. 7, line 12) of failed attempts at accessing the server.

As concerns claim 26, a method according to claim 24, and further comprising the step of storing in the database the problem magnitude versus time (fig. 6A-612) for any server and connection engine pair.

As concerns claim 27, a method according to claim 24, and further comprising the step of tracking the magnitude of failure (fig. 6A-610) based on the problem magnitude of failed attempts stored within the database.

As concerns claim 35, a method of accessing a server of a server on an Internet Protocol (IP) network comprising the steps of: distributing connection engines (col. 2, lines 47-57; col. 5, lines 28-29- 102; col. 5, lines 46-50; col. 6, lines 12-16) over multiple subnets and/or multiple IP addresses; attempting access to servers (212) using the connection engines; assigning problem magnitudes to failures (fig. 6A-612, 6B-656,684) in accessing any servers; storing the problem magnitude versus time as a preset rate of decay (fig. 6A-time interval) relating to a particular connection engine and server within a database (col. 4, lines 53-56; col. 7, line 12); and choosing a connection engine having minimum problems (fig. 6A-612,614, 6B-678,656) when a particular server is to be accessed based on the data stored within the database.

As concerns claim 36, a method according to claim 35, and further comprising the step of distributing the connection engines over multiple servers (figure 2).

As concerns claim 38, a method according to claim 35, and further comprising the step of terminating any further attempts at accessing a server using a first connection engine if a problem magnitude exceeds a predetermined threshold (fig 6A-618).

Art Unit: 2451

As concerns claim 39, a method according to claim 38, and further comprising the step of delaying any reattempts at accessing the server until a problem magnitude returns to below a predetermined threshold (figure 6B-686).

As concerns claims 34 and 47 choosing a second connection engine and attempting access to the server after failing access with the first connection engine (fig. 6A-backup or available server).

Watt '065 does not explicitly disclose wherein a problem magnitude is assigned for an error based on failures unrelated to a network failure.

Jablon '917 teach an error based on failures unrelated to a network failure include an incorrect password (col. 2, lines 43-49).

It would have been obvious to one having ordinary skill in the art at the time of the invention to provide the system of Watt '065 with failures bases on incorrect passwords, as taught by Jablon '917, in order to provide a security mechanism of limiting access. Such a modification is a combination of known elements yielding predictable results.

3. Claims 9, 19, 31, 44 and 51 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 7,213,065 to Watt and U.S. Patent No. 7,139,917 to Jablon as applied above in view of U.S. Patent No. 7,251,254 to Bond et al.

Watt '065 as modified does not explicitly disclose a proxy server.

Bond et al. '254 teach a proxy server (col. 1, lines 24-26).

It would have been obvious to one having ordinary skill in the art to provide the system of Watt '065 as modified with a proxy server as taught by Bond et al. '254, in order to provide a

Art Unit: 2451

means of increasing availability. Such a modification is merely a combination of known elements yielding predictable results.

4. Claims 10, 20, 32, 33, 45 and 46 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 7,213,065 to Watt and U.S. Patent No. 7,139,917 to Jablon as applied above in view of U.S. Patent Application Publication 2001/0032245 to Fodor.

Watt '065 as modified does not explicitly disclose using POP, IMAP or httpmail protocol and using a Wireless Application Protocol (WAP) or Simple Mail Transfer Protocol (SMTP).

Fodor '245 teach using POP and IMAP protocols (0020) and SMTP (0018).

It would have been obvious to one having ordinary skill in the art to provide the system of Watt '065 with POP or IMAP protocols as taught by Fodor '245, in order to provide a protocol for a client to access email on a remote server. Such a modification is merely a combination of known elements yielding predictable results.

Allowable Subject Matter

5. The indicated allowability of claims 7, 8, 17, 18, 29, 30, 42, 43 and 50 is withdrawn in view of the newly discovered reference(s) to Jablon. Rejections based on the newly cited reference are found above.

6. Claims 4, 14, 25 and 37 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

7. Claim 49 is allowed.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. See PTO-892.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John B. Walsh whose telephone number is 571-272-7063. The examiner can normally be reached on Monday-Thursday from 8:00-6:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Follansbee can be reached on 571-272-3964. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/John B. Walsh/
Primary Examiner, Art Unit 2451